P17

C.F.7

1940

Department of

OFFICE Board of Revenue

STATION Madras

Mis No. 2312

L. 1587/40

Dated ~~24~~ 30 - 8 - 40.

DESPATCHED

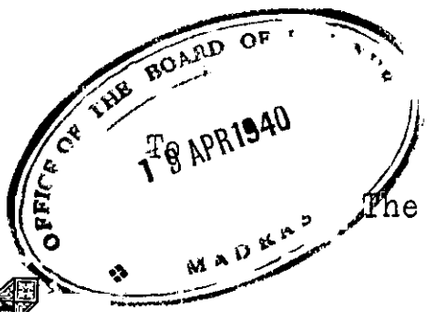
4 SEP 194

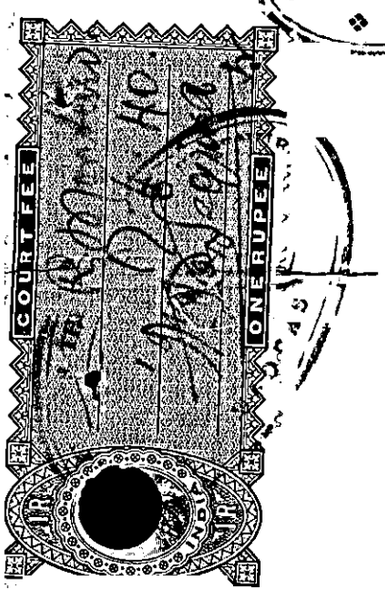
Pages in the file C.F. 26
N.C. 10

SUBJECT.)

Arms Act - (South Kanara) - Mangalor
Taluk : Kuntoor Village - Custodio
Rosario Monteiro. Mr - Issue of a fresh
licence in form XVI Appeal - dismiss

L 150 R/P 917
CFL 2/8





The Board of Revenue, Land Revenue and Settlement, Madras.

Memorial of Mr. Custodio Rosario Monteiro, son of Bastiam Monteiro, Amtur Village, Mangalore Taluk, P.O. Karingana, South Kanara.

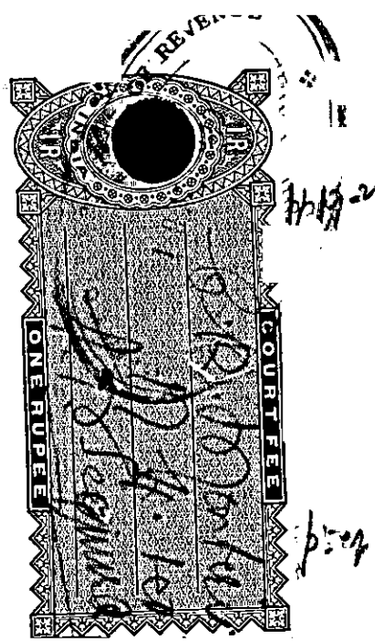
Dated 15th April 1940.

Subject: Arms Act.

Reference Proceedings No. L.Dis.L.No. 148/40 dated 8-3-1940 of the Board of Revenue and connected papers.

(2.) M.L.Dis. 868/40 dated 19-3-1940 of the District Magistrate of South Kanara.

(3) M.L.Dis. 969/40 of the District Magistrate of South Kanara dated 3rd April 1940.



The memorialist begs to submit as follows:-

1. That in his appeal dated 4-1-1940 disposed of by the Board of Revenue in Proceedings No.L.Dis. L. 148/40 dated 8-3-1940, the memorialist had explained the case in detail and the Board of Revenue was pleased to direct the memorialist to the District Magistrate for orders. The District Magistrate, South Kanara, in his Pro. No.M.L.Dis.868/40 dated 19-3-1940 instead of restoring his original XVI form license has issued only a XIX form for three villages. The memorialist made a further representation to the District Magistrate, South Kanara, in this regard but to of no avail.

2. The memorialist's main contention was that the cancellation of license MAN.34/6 XVI for the District was irregular as it was in force till 31-12-1942. Neither Section 18 nor Section 43 of the Arms Act have not the remotest bearing on the case.

3. That as the cancellation itself was against the provisions of the Arms Act, his license in its original form ought to have been restored but that has not been done.

4. The memorialist herewith submits the original license which has been cancelled and prays for its perusal as regards his contention that it was in force till 31-12-1942.

5. The memorialist submits that the main issues are:-

(1) Is the cancellation proper under Section 18 of the Act as the license was cancelled for no reasons defined in that Section.

(2) Can a license be cancelled when it is in force for any reason other than Section 18.

(3) Was Section 43 applicable when license was once renewed till 31-12-1942.

(4) If it is held that cancellation was against the provisions of Arms Act, whether the issue of a new license in XIX form 3 villages is regular as the cancelled one was in Form XVI for District.

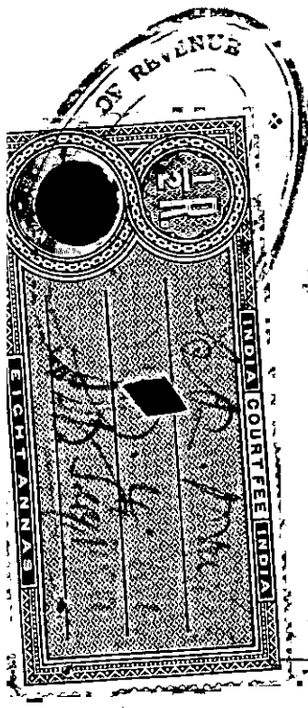
6. In view of the wrong cancellation of his license, and as the question of need does not arise in the case, the memorialist submits the case for review and restoration of his original license.

Memorialist.

M.L.Dis.868/40.

Proceedings of the District Magistrate of South Kanara, dated the 19th March 1940.

M.V.Subrahmanyam,Esq.,M.A.,I.C.S.



Arms Act - Gun licence - Amtoor village - Custodio Rosario Monteiro - cancellation of licence - Board's orders - revised orders - issued.

Read: (i) From the Board of Revenue, Madras, L.Dis.148/40, dated 8.3.1940.

(ii) This office M.L.Dis.3678/39, dated 14.12.39.

The gun licence described below is issued with effect from this date:-

1. Name and address of the licensee:	Mr. Custodio Rosario Monteiro, son of Bastium ~~Monteiro, Amtur village,~~ P.O. Karingana.
2. Number of the licence:	Mangalore XIX- 49/b
3. Weapon:	For a S.B.M.L. gun to be purchased and got stamped in the Mangalore Taluk office within three ---- months from this date.
4. Validity of licence:	Up to 31.12.1942 in the villages of Golthamajal, Amtoor and Barimar.

/By Order/

Huzur Sheristedar.
20/3/40

To the licensee with a licence.
Copy to the Tahsildar Magistrate, Mangalore.
Copy to the Station House officer, Buntwal.

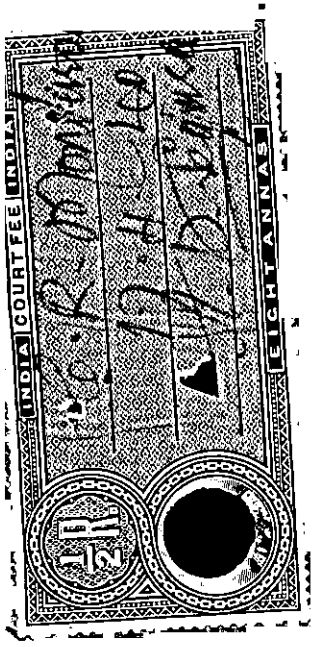
M.D'S.19/3.

20-3-40

M.L.Dis. 969/40.

Proceedings of the District Magistrate of South Kanara, dated 3.4.1940.

Sri Rao Bahadur V. Ponnuswami Pillai.



Arms Act - Gun licence - Mangalore 49/6 XIX - issue of a fresh licence in form XVI - Petition for reconsideration - Orders -

---

Read:- Petition of Custadio Rozario Monteiro s/o Bastia Monteiro Amtur village, dated 26.3.40.

*****

The petitioner is informed that a licence in form XVI will not be reissued.

2. G.L. Man. 49/6 XIX is returned.

/By Order/

Huzur Sheristedar.

4.4.40

To the petitioner.

pp 9-10 [illegible]
sent in original
with despatch entry
[illegible]

new licence acc to rec mentioned in pursuance of the orders in the Govt. Memorandum No. 1624-B-1, Home Dt 27-8-1936. p. 17 Cf. (A)
He obtained reports from the Taluk Hagle and the Police to the D.M. Malabar and considered that there were not sufficient grounds to grant a licence to the petitioner to possess a gun and therefore refused to grant the one licence. The petitioner then preferred an appeal to the Board, against the order. The Board thereupon, after perusing the connected records allowed the appeal and directed the D.M. to grant a licence to the petitioner. The D.M. thereupon instructed the D.M. granted a licence to the petitioner, but in Form XIX and not in Form XVI. The new licence is to be in force only in three villages whereas the old licence was valid throughout the district. was issued to him. The petitioner has again appealed to the Board and he contends that the Dt Magte has no power to cancel a licence except for the reasons given in Sec 18 and that as that section does not apply to his case, the cancellation of his old licence (in Form XVI) which was made valid up to 31.12.1942 and the issue of a new licence in form XIX are irregular.

It was seen from the records of enquiry that nothing unfavorable to the appellant had been reported and that, on the other hand, the Taluk Magte and the Police officers had recommended the licence. (A) p. 19 Cf.

2. The Govt. Memo. No. 1624-B-1 Home Dt 27-8-1936 directs that an application for permission to buy a new weap should be treated as an

[T. A]

G.F. 18.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	19/7	
When copied ..	20/7	
When examined..	22-7	
When signed ..	23-7	
When despatched		

SUBJECT :— Arms Act - (South Kanara) - Mangalore Taluk - Amtoor village - Custodia Rosario Monteiro, Mr. - Gun licence in Form XIX - Issue of fresh licence in Form XVI - Appeal.

READ AGAIN No. _____, dated _____ 19____

" " _____ 19____

READ ALSO :— Arms Act — Gun licence — Sale of weapon during currency of licence — Application for permission to purchase new weapon — Power of Dt Magte to cancel or modify licence then — Instructions solicited.

No. _____ From the _____, No. _____, dated _____ 19____

_____ " _____ 19____

_____ 19____

Ref: Letter Ms. / Resolution / Rout. No. 1571, dated 19-7-1940.

2. The question has arisen in connection with an appeal preferred to the Board under rule 43 of the Indian Arms Rules from S. Kanara district. One Mr. Custodio Rosario Monteiro, Amtoor village, Mangalore Taluk, South Kanara District, was the holder of a licence for a S.B.M.L. gun in Form XVI of the Indian Arms Rules which was renewed on 26-10-1939 for a period of three years and made valid throughout the district upto 31-12-1942. As his gun was old and unserviceable, he sold it to a licensed dealer on 8-11-1939 and on the same day applied to the First Magistrate for permission to purchase a S.B.M.L new gun. The D.M. treated the application as one for a

Issue of Resolution

Draft Resolution

Show Section

It was ordered in Govt Memo No. 1624-B1 Home dt 27.8.36 issued to the Dt Magte of Malabar that the application from an arms licensee to buy a new weapon should be treated as an application for a new license and the appropriate fee collected. On a reference from the Commissioner of Police it has been directed in Govt Memo No. 13233-B1 Home dt 10.5.40 that the application from the holder of an arms licence to change the weapon entered in the license for one of another type shd be treated as an application for a new license and the appropriate fee collected. The Board requests to be informed whether, when during the currency of the license the licensee sells away his weapon and applies for permission to buy a fresh similar weapon, the application is to be treated as one for a new license merely for the purpose of collection of fees or whether the Dt Magte may cause enquiries to be made as on a new application and, with refce to the result of the enquiries, cancel or modify the existing license.

application for a new licence and the appropriate fee collected. These instructions have been reiterated in the Govt. Memo. No. 13233-B-I Home dt 16-5-1940. The Board considers that the instructions in the memos quoted above do not give the D.M. any more power than the collection of fresh fees. The Board requests to be informed whether this view is correct and whether during the period of currency of a licence the D.M. can cancel or modify a licence solely under the cover of the Govt. Memorandum when permission is sought to buy a new weapon.

3. ~~In this connection~~ The Board ~~begs to point out~~ that a possible view is that under Rule 41 of the Indian Arms Rules read with Condition 2 of the licence in form No. XVI the appellant was permitted to own a particular weapon

p 32 of Bk No. 4-A.

p. 89 of Bk. No. 4A

and that when this weapon was disposed of, the licence became automatically cancelled. As against this view it ~~is submitted~~ may be argued that condition 2 of the licence (not a particular weapon but) covers a particular kind of weapon (S.B.M.L. or D.B.M.L. etc. as the case may be) and that ~~not~~ no registered No. or distinguishing mark ~~of the weapon~~ is given, ~~in Column 3 of the licence~~ Condition 2 can therefore refer only to the kind of weapon (and not to a particular weapon), and that the disposal of that weapon does not involve cancellation of the licence. The Board requests to be informed as to which of the above views is correct.

p 89 of Bk No. 4 A.

When there is no change in the type of weapon the licence remains unaffected. The latter view receives support from the actual entries in the licence in Form XVI issued to the said appellant in this case. The weapon is merely described as a 'S.B.M.L. gun' and

4. The Board requests the favour of instructions.

Walsh 25.6.40 — Walsh 27/6/40 — 17/7

To the Secretary to Govt., Home Deptt.

C.F. 31—12,006—28-11-39

O/C

REVENUE **DEPARTMENT.**

CURRENT No.

*Received*_____19 *Registered*_____19

Subject.

Arms Act - Arms license - Sale of weapon during currenc of license - Application for permission to purchase new weapon - Power of District Magistrate to cancel or modify license then - Instructions solicited.

Reference No. L.1387/40-1

Station Madras, *Dated the* 19th July 1940.

From
R.A. Gopalaswami Esq., I.C.S.,
Jt. Secretary,
Board of Revenue.

G.W.Priestley Esq., I.C.S., Commr. of Excise & Sep. Rev.

Read the following:-

REFERENCE.

p.174 (A)

It was ordered in Government Memorandum No. 1624-B1 Home dated 27-8-1936 issued to the District Magistrate of Malabar that the application from the arms licensee to buy a new weapon should be treated as an application for a new license and the appropriate fee collected. On a reference from the Commissioner of Police it has been directed in Government Memorandum No. 13233-B1 Home dated 10-5-1940 that the application from the holder of an arms license to change the weapon entered in the license for one of another type should be treated as an application for a new license and the appropriate fee collected. The Board requests to be informed whether

(M)

when during the currency of a license the licensee sells away his weapon and applies for permission to buy a fresh similar weapon, the application is to be treated as one for a new license merely for the purpose of collection of fees or whether the District Magistrate may cause enquiries to be made as on a new application and, with reference to the result of the enquiries, cancel or modify the existing license.

2. The question has arisen in connection with an appeal preferred to the Board under rule 43 of the Indian Arms Rules from South Kanara district. One Mr. Monteiro was the holder of a licence for a S.B.M.L. gun in Form XVI which was renewed on 26-10-1939 for a period of three years and made valid throughout the district up to 31-12-1942. As his gun was old and unserviceable, he sold it to a licensed dealer on 8-11-1939 and applied on the same day to the District Magistrate for permission to purchase a new S.B.M.L. gun. The District Magistrate treated the application as one for a new licence according to the instructions in the Government Memorandum No. 1624-B-1 Home dated 27-8-1936. He obtained reports from the Taluk Magistrate and the Police and considered that there were not sufficient grounds to grant a licence and therefore refused to grant one. The petitioner preferred an appeal to the Board. It was seen from the records of enquiry that nothing unfavourable to the appellant had been reported and that, on the other hand, the Taluk Magistrate and the Police officers had recommended the license. The Board therefore allowed the appeal and instructed the District Magistrate to grant a licence. The District Magistrate thereupon granted a licence to the petitioner, but in Form XIX and not in Form XVI. The new license is to be in force only in three villages whereas the old license was valid throughout the district. The petitioner has again appealed to the Board and he contends that the District Magistrate has no power to cancel a license except for the reasons given in Section 18 and that, as that section does not apply to his case, the cancellation of his old license in form XVI which

p 33 of Rec. no. 4-A.

pp 86-90 of Rec. no. 4-A.

p. 1 of (A)

p. 17 of (A)

p 13 of (A)

pp 1-7 of (A)

p 05 upto 19 of (A)

pp 1-3 of

p. 5 of Rec. no. 4-A

was made valid up to 31-12-1942 and the issue of a new license in form XIX are irregular.

3. The Board submits that a possible view is that under rule 41 of the Indian Arms Rules read with condition 2 of the licence in Form No. XVI the appellant was permitted to own a particular weapon and that when this weapon was disposed of, the licence became automatically cancelled. As against this view it may be argued that condition 2 of the licence covers not a particular weapon but a particular kind of weapon (S.B.M.L. or D.B.M.L. etc. as the case may be) and that when there is no change in the type of weapon the license remains unaffected. The latter view receives support from the description of the weapon in the license in form XVI issued to the appellant in this case. The weapon is merely described as a 'S.B.M.L. gun and no registered number or distinguishing mark is given.

4. The Board requests the favour of instructions.

o/c

(Intd.) K.P.K.N.
for Jt. Secretary.

To the Secretary to Government, Home Department.

v.c/22.7.

Government of Madras.

Received.....1940. Registered.....1940.

Abstract.

Arms Act - Licence - Application for permission to purchase new weapon on sale of old weapon - Licence to be deemed to be cancelled - Modified or new licence - Licensing authorities competent to grant.

- -

Home Department.

G.O.No.MS.3283, dated 7th August 1940.

O R D E R:-

The Board of Revenue is informed that when during the currency of a licence the licensee sells his weapon and applies for permission to buy a fresh similar weapon, the licence stands automatically cancelled. It is, therefore, open to the licensing authority to cause enquiries to be made as in the case of a new application and, with reference to the result of the enquiries, modify the former licence or issue a fresh one in the same form or in another form, according as the authority may deem fit, on payment of the prescribed fee.

2. Every licence in Form XVI is issued in respect of the particular weapon mentioned in the licence, which must contain a brief description of the weapon, with details, e.g., ~~distinguishing~~ distinguishing marks, register number, etc. It is possible to enter these details in the licence in the case of almost all weapons. In the case of muzzle loading guns, which do not generally have a distinguishing mark or the maker's name or number, it has been ordered in G.O.No. 1025 Public, dated 22nd October 1927 that the number of the

licence

licence should be stamped on the barrel of the gun. Thus even the licence for a muzzle loader will cover a particular weapon and not a particular class of weapon.

(by Order of His Excellency the Governor)

A. R. MacEwen,

Secretary to Government.

To the Board of Revenue with reference to its Ref.No.L.1587/40-1 dated 19-7-1940(with copy of G.O.1025 Public dated 22-10-27).

Copy to all Distr:

the Commissioner of Police,

Inspector-General of Police

(True Copy)
F o r w ar d e d
(By Order)

Superintendent.

OFFICE OF THE BOARD OF REVENUE
9-AUG1940
MADRAS

L 3083

Government of Madras.

Received.....1940. Registered.....1940.

SECY.
9-AUG 1940

Abstract.

Arms Rules.

Licence Register - Forms A, C, D & E. - Amendments - Orders issued.

- -

Public Department.

G.O.No. MS., 1025, dated 22nd October 1927.

O R D E R:-

The Inspector-General of Police has suggested that the heading of column 5 of the gun licence register, Form A, column 6 of Forms C & D and column 4 of Form E prescribed in G.O.No.2577 Judicial, dated 23rd November 1914 be amended so as to read "Nature and description of arm". The reasons for the suggestion are:-

(i) that it is desirable that a description of the arm for which a licence has been issued should be on record in the register so that it may be referred to whenever necessary;

(ii) that licensees change their arms not infrequently and as the registers do not at present contain an exact and detailed description of arms, e.g., the maker's name and number, it may be possible for licensees to possess more than one weapon and to exchange weapons; and

(iii) that if it is desired to trace the onwership of a weapon found, or to circulate the exact description

of a weapon lost or stolen it would be useful to have the description ready at hand in the Police station.

The information/~~which~~ the Inspector-General suggests for record in the register is

(a) B.L. weapons. Bore; Number of barrels or chambers or number of cartridges held in the magazine; whether hammer or hammerless; maker's name and number; any distinctive marks.

(b) M. L. weapons. Maker's name and number (if any); any distinctive marks.

2. The Government consulted the Commissioner of Police, Madras, and certain selected District Magistrates and find a general agreement as to the ~~mx~~ need for some more detailed description of licensed weapons being available. The proposal of the Inspector-General of Police to amend the heading of column 5 of the gun licence register is therefore approved. The Government do not consider it necessary to amend the headings of Forms C, D & E as proposed by the Inspector-General.

3. Some of the District Magistrates consulted pointed out difficulties in adopting the Inspector-General's suggestion. One District Magistrate, while agreeing that it is good so far as reputable B.L.weapons are concerned, has observed that in the case of other guns, especially M.L. guns, the suggestion is impracticable because these guns have no identifying marks. There is force in the argument that it is not possible to describe satisfactorily the ordinary M.L. gun. A

remedy for this has been found in Malabar where all muzzle loading guns are stamped on the stock with a number and distinctive letter for each taluk. In that district as soon as a licensee purchases a weapon he produces it in the Taluk office. In the Taluk office the number of the licence is stamped on the stock if it is a M.L. gun and an entry 'gun produced' is made in the Arms Register. The Government direct that this practice of stamping a number on the M.L. guns should be adopted in all districts except in the scheduled district where licences are not required for these guns (G.O.429 Public dated 8th May 1928).

4. It has been pointed out by some District Magistrates that there may be difficulty in getting the descriptions entered in the registers maintained in their offices. The Government consider, that, provided the full details exist in the police station the repetition of these in the Huzur and Taluk registers is not essential. The important register is that in the police station, for it is the Police who trace the weapons. The registers in the Huzur and Taluk offices are only of secondary importance but these too can be written up in due course, the Huzur register by comparison with licences and Taluk register and from the information supplied by vendors of arms, and the Taluk register by comparison with the Police station registers. The Government however leave this matter to the discretion of the District Magistrate.

(By Order of the Governor in Council)

H. G. Stokes,
Chief Secretary to Govt.

To the Inspector-General of Police, with ref. to the correspondence ending with his letter R.C.No.246/Stat/27 dated 25-4-1927.
To all District Magistrates.
To the Commissioner of Police, Madras.
" Superintendent of Stationery, Madras.
" Superintendent, Government Press, Madras.

25

[G.O.P.]

DRAFT FOR APPROVAL.

S.F. 16.

	Date.	Initials.
When received for fair copying ..	30/8	HG
When copied ..	2/9	ARN
When examined..	3-9	VTB/NDO
When signed ..		HG/4/9
When despatched.		

SUBJECT:— Arms Act. (South Kanara). Mangalore Taluk - Amtoor village - Custodio Rosario Monteiro, Mr. - ~~Grant of licence in Form XIX~~ Issue of a fresh licence in Form XIV - Appeal.

READ AGAIN _____, dated licence in Form XIV 19 Appeal.

" " _____ " dismissed 19 _____

READ *ALSO*:—

54. No. Appeal From Mr. Custodio Rosario, ~~Monteiro~~ dated 15-4-1940 Q.

" _____ " _____ " _____ " 19 _____

" _____ " _____ " _____ " 19 _____

~~Order~~ Resolution ~~Rout.~~ (Ms.) No. 2312, dated 30 ~~29~~-8-1940.

R. See Pl. book pp 19-23 of the above year for the above bill. Checked HG

vetted ARN 2/9/40.

The Board sees no grounds for interference on behalf of the petitioner. The appeal is dismissed.

HG 28.8.40

HG 28/8/40

Checked HG 2.9.40

Mr. Custodio Rosario Monteiro,
S/o Bastian Monteiro,
Amtoor village, Mangalore Tk.
Karinjama P.O. South Kan. Dt.
with a licence. - pp 9-10 of Pl. book.

Issue Checked HG 4.9.40

Copy to the Dist. Magistrate, South Kanara, with a copy of the appeal petition. (original) HG 4/9

pp 1-3 of the appeal petition.

OFFICE OF THE BOARD OF REVENUE
-9 NOV 1940
MADRAS

GOVERNMENT OF MADRAS

Sectt. II-15 (a)—35,006—2-11-39.

SECY.
9 NOV 1940

Received ..... 19 *Registered* 19

Abstract.

Arms Rules - South Kanara district - Custodio Rosario Monteiro- Gun licence - Cancellation - Petition - Rejected.

Home DEPARTMENT.

G.O. No. MS 4497 dated 8th November 1940.

READ the following paper :—

ENCLOSURES.

No .....

ORDER:-

The Government decline to interfere.

(By Order of His Excellency the Governor)

A.R.MacEwen
Secretary to Government.

To

Mr.Custodio Rosario Monteiro
son of Bastian Monteiro, Amtoor village,
Mangalore taluk, South Kanara district
with reference to correspondence
ending with his letter dated 16-10-40.
The District Magistrate, South Kanara.
The Board of Revenue.

(True copy)
Forwarded.
(By Order)
Superintendent.

AS(Sctt)

S.R. To Asst Secy

No action is necessary. This may be recorded and stitched with B.P. nos: 2312 & 30-8-40.

(2)

15/11/40

15/11/40

113

20,002—10-10-38.

A.S.(Sett)

PETITION NOTE FILE.

SUBJECT.— Arms Act - (Sarla Kamath) - Mangalore Taluk. Amtoor Village - Custodio Rosario Monteiro. Mr. - Gun licence in Form XIX - Issue of fresh licence in Form XV - Appeal.

DATE OF RECEIPT.— 19-4-1940.

NOTE.—If the answer to any of the questions noted below admits of a simple and direct answer, this answer should be noted against the question. Where the answer is in doubt and requires discussion and orders, the words "see below" should be entered instead and the question dealt with in the body of the Office note under the numbered heading which will be repeated for the purpose.

1. Nature of Petition? (Original, appeal, or revision). — Appeal petition

2. Under what statute, law or other provision, is it preferred? — Under Rule 63 of the Indian Arms Rules — p. 33 of Bk No. 4-A.

3. In cases of appeal or revision—Authority on which original (and lower appellate) orders were passed. — (Dist. Magistrate) Chief

4. Under what authority does the Board entertain this petition? — Same as item 2 above.

5. *Stamps* (Quote authority in every case).—

(*a*) Is the petition with enclosures properly stamped ?

petition - Yes with Rs. 2/-
Rule XI (1) of the BSO petition Rules
p. 1068 BSO. Vol. IV
Ele no. 71.

Copy of the orders appealed against are in original which need not be stamped.
But the petitioner has affixed C.F. Stamps of the value of Re 1/. This may be refunded to him when final orders are passed.

(*b*) If exempt from stamp duty, state authority.

6. *Limitation*—

(*a*) Is the petition in time—State time allowed—With authority ?

In time

(*b*) If the petition is time barred—
I. Is there authority to condone delay ?

II. If so, state here any grounds adduced for condonation.

7. *Miscellaneous.*—Are there any other chnical points for consideration ? If so, ate them briefly.

please see note below.

Counsell note

To A.S.(Sett.)

The petitioner, Mr. Custodio Rosario Monterio, was the holder of a licence for a S.B.M.L. gun in Form XVI of the Arms Rules which was renewed on 26-10-1939 for a period of 3 years and made valid up 31-12-1942. As his gun was old and unserviceable, he sold it to a licensed dealer on 8-11-1939 and applied to the Dist. Magistrate for permission to purchase a new gun. The Dist. Magistrate treated the application as one for a new licence in pursuance of the order in the Govt. Memorandum at page 17 cf (A) and considered that there were not sufficient grounds to grant a licence to petitioner to possess a gun and therefore refused to grant the licence. The petitioner then preferred an appeal to the Board against the Dist. Magistrate's order. The Board after persuing the connected records allowed the appeal and asked the Dist Magistrate to grant a licence to the petitioner. The Dist. Magistrate has granted a licence to the petitioner in Form XIX and not in Form XVI in which the licence was originally issued to him. The petitioner has appealed to the Board for the grant of the licence in the Form XVI.

2. The points raised by the petitioner are:-

1) is the cancellation proper under Sec.18 of the Arms Act as the licence was cancelled for no reasons defined in that Section?

ii) can a licence be cancelled when it is in force for any reason other than Section 18?

iii) was ~~Section~~ Rule 43 applicable when licence was once renewed till 31-12-1942? and

iv) if it is held that the cancellation was against the provisions of the Arms Act, whether the issue of a new licence in Form XIX for three villages is regular as the cancelled one was in Form XVI for the whole dist?

3. The points are dealt with below:

(1) and (iii) - The Dist. Magistrate has already reported that there was no application of Section 18 of the Arms Act or rule 43 of the Arms Rules in this case.

para 2 - p. 13 of (A).

(iv) As regards the allegation that a licence has been granted to the petitioner by the Dist. Magistrate in Form XIX instead of in Form XVI as before, it is submitted that Form XVI is used in cases where licences are required for going armed for the purposes of sport, protection or display and that Form XIX is used in cases where licences are required for going armed for the destruction of wild animals which do injury to crops or cattle. In the present case the Dist. Magistrate has granted a licence to the petitioner in Form XIX as recommended by the Station House Officer in the first instance.

Rule 33 on page 27 of Pt. No. 4-A

Rule 36 on p. 29 of Pt. No. 4-A.

portion marked 'A' at p. 5 n.b of (A)

(ii) The petitioner having sold away the gun in respect of which he was granted a licence in Form XVI, applied to the Dist. Magistrate for permission to purchase a new weapon. The District Magistrate in view of the orders contained in the Govt. Memo. No.1624-B-1 dated 27-8-1936 treated the petitioner's application as one for the grant of a new licence. The Govt. Memo directs that an application for permission to ~~by~~ buy a new weapon should be treated as an application for a new licence and the appropriate fee collected. The question for consideration is whether this direction can give the District Magisgrate any more power than the collection of fresh fees. A licence has already been granted to the petitioner under the Arms Rules and it will be in force for a period of three years. It is not clear whether within this period the Dist. Magistrate can cancel or modify the licence solely under the cover of the Govt. Memo when permission is sought to ~~by~~ buy a new weapon. It is submitted that when a licence is granted under a

p 17 of (A)

ibid.

Please see also the Govt memo dt 10.5.40 re cancelling licence order at (M)

p 9 of

ibid

statuatory Rule, its cancellation or modification must also be under a statuatory Rule. The Govt. Memo. cannot take the place of a statutory Rule. ~~Hence~~ It appears that the direction therein is intended only for the collection of fresh fees and nothing else. In the circumstances the Govt. may be addressed as to whether under ~~this~~ their Memo. Dist. Magistrates can cancel or modify the existing licence after treating the application for permission to ~~by~~ buy a new weapon as an application for the grant of a new licence.

p 174 of (A) + (M)

This may be offrd. has

Sd 1-6-1940. has 4/6/40

JS 3/6/40

J. S

I think a licence in Form XVI. Covers only the particular weapon Specified in col 3. of the licence (p87 of Bk 4-A) & when this particular weapon is Sold, the licence lapses. If this Correct, petitioner has no Case at all Pl. note further as to aspect of the Case

MP

H.S. (Sett)

Please see T.S's remarks overleaf.

Under condition 2 of the licence Form XVI in Schedule VIII of the Indian Arms Rules, and rule 41 at page 32 of the Indian Arms Act the licence granted covers only the persons named, and the arms and ammunition described therein and such retainers (if any) as may be entered in Column 5. As soon as the weapon for which a licence is granted in this Form is sold away, the licence automatically lapses.

p. 89 of BK W. & A. Rules 4.

Ag. 5.6.40. In view the petitioners has no case.

For orders

The license in form XVI issued in this case is at pp 9 c f. The description of the weapon given in Col 3 of it is 'S.B.M.L gun'. The conditions of the license are correctly printed at the end, at pp 17-19. Acc^g to Condition 2, the license covers a S.B.M.L gun. No registered number or distinguishing mark being given ~~given~~ in Col 3, the condition can be said to refer only to the kind of weapon and not to any particular weapon. Under cover of this license the man could not possess a S.B.B.L or D.B.M.L gun but he could not infringe condition 2 by selling his S.B.M.L gun and purchasing another.

17/6

Govt

Address Govt as proposed at

X p 5 Nf; referring also to Lt. Jonville's views on this aspect of the case

Ref. returned

hos 18.6.40

A.S (Sett)

To A.S. (Sett)

Orders at p. 6, n.f. - Draft Submitted

25-6-60. 27/6/60

M-3
T.S.
A.S (Sett).

pp 19-20 cf. From the Home Dept. G.O. No Ms 3283 dt 7-8-1960

To A.S. (Sett)

The petitioner, Mr. Custodio Rosario Monteiro
p. 9 cf. was the holder of a licence for a S.B.M.L. gun
in Form XVI of the Arms Rules which was renewed
on 26-10-1939 for a period of 3 years and
p. 1 cf. (A). made valid upto 31-12-1942. As his gun was
old and unserviceable, he sold it to a licensed
dealer on 8-11-1939 and applied to the Dist.
Magistrate for permission to purchase a
new gun. The D.M. treated the application
as one for a new licence in pursuance
p. 17 cf. (A) of the order in Govt. Memo. No. 1624-B-1 Home
dated 27-4-1936 (issued to the D.M. Malabar),
p. 13 cf. (A) obtained reports from the Taluk Magistrate and the Police
and considered that there were not sufficient
grounds to grant a licence to the petitioner and
therefore refused to grant one. The petitioner
pp 1-7 cf. (A) preferred an appeal to the Board. It was seen
from the records of enquiry that nothing
p. 5 n.f. (A) unfavorable to the appellant had been
reported and that on the other hand, the
Taluk Magistrate and the Police officers

grant-ed
had recommended the licence. The Board
therefore allowed the appeal and pp. 5 n.f. and 19 c.f. (A).
instructed the Dist. Magistrate to grant a
licence. The D. M. thereupon granted a
licence to the petitioner, but in Form XIX
as recommended by the Station House officer in the first instance portion marked 1 on p. 5 n.f. of (
and not in Form XVI in which the previous licence
had been
~~was originally~~ issued to him. The new licence
is to be in force only in three villages
whereas the old licence was valid throughout
the district. The petitioner has appealed pp 1-3 c.f.
to the Board for the grant of the licence
in Form XVI and he contends that the
Dist. Magistrate has no power to cancel
a licence except for the reasons given
in Section 18 and that, as that section p. 5 of Bk. no. 4-A
does not apply to his case, the cancellation
of his old licence in Form XVI which was
made valid upto 31-12-1962 and the issue point no. 4 - on p. 3 c.f.
of a new licence in Form XIX are irregular.

2. Govt. Memo. no 1624 B-1 Home p. 17 c.f. (A)
dated 27-6-1936 directs that an application
from the arms licensee to buy a new weapon
should be treated as an application for
a new licence and that the appropriate fee should be
collected. The instructions have been reiterated
in the Govt. Memo. no. 13233-B-1 Home dt 10-5-1940. (M).
The question for consideration is whether
when during the currency of a licence the

licensee sells away his weapon and applies for permission to buy a fresh similar weapon, the application is to be treated as one for a new licence merely for the purpose of collection of fees or whether the D.M. may cause enquiries to be made as on a new application and, with reference to the result of the enquiries, cancel or modify the existing licence. A reference was
pp 15-17 of. made to the Govt. requesting instructions in the matter. The Govt., in their Order
pp 19-20 of. No. Ms. 3283 Home dt 7-8-14 do, have clearly stated that when during the currency of a licence the licensee sells his weapon and applies for permission to buy a fresh similar weapon, the licence stands automatically cancelled and that it is, therefore, open to the licensing authority to cause enquiries to be made as in the case of a new application and, that with reference to the result of the enquiries, modify the former licence or issue a fresh one in the same form or in some other form according as the authority may deem fit, on payment of the prescribed fee

In the circumstances orders

are solicited on the appeal petition at pp. 1-3 of.

To be read from page 7 N-f.

Issued 16-8-40. 19.8.40

The issues raised by the appellant in paragraph 5 of his appeal have no point in them because, a licence (it has now been made clear by Govt) as his application to the Dt Magistrate for permission covers a particular weapon and, in every case; the grant of a licence to purchase a new weapon when that weapon has been sold by the licensee, the licensee has to apply afresh, and there is no question of its being cancelled by the Dt Magistrate under S. 18 or otherwise itself, and there is no question of its being cancelled by the Dt Magistrate under S. 18 or otherwise [illegible] The District Magistrate granted a New Licence for a new weapon in Form XIX accepting the recommendation of the police, in preference to that of the Taluk Magistrate recommending the grant of a licence in Form XVI. In view of the recent pronouncements of the Govt of India regarding the desirability of tightening up the administration of the Arms Act & Rules, there appears to be no reason for interfering on behalf of the appellant. The appeal may be dismissed.

p3 of

L 3 Put up the G.O. recently issued regarding tightening up of the arms licence rules. Cite 20/8 Sir, the G.O. is put up at (F). 21-8-40.

p19 of J

A at p5 of (A)

(F)

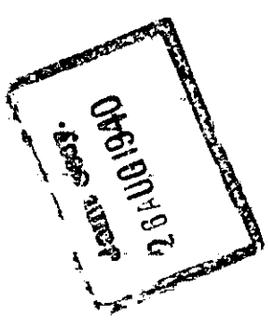
Nil.

Cite 21.8.40 21/8/40

From p 7 N-f

Del vdsw J.S

The appeal is dismissed 23/8/40 M-3



L3 Draft 26/8

A.S. (Felt).

B.P. Mis. No. 2312
dated 30-6-1940.
Single Member.
~~Full Board~~.

	I.A.	A.D.S. & L.R.	Asst. Secretary L.R.	Sett.	Sep. Rev.	Jt. Secy.	M 4	M 3	M 2	M 1
								↓ Commr. of Excise & Sep. Rev.		
1. Open file seen by			✓		✓		✓			
2. Final draft seen by			✓							
3. Now circulated to										
4. Initials.										

Passed for record.

~~Secretary~~
Jt. Secretary

A.S. (C.W.)

A.S. (L.R.).

A.S. (Sett.)

A.S. (Excise)

A.D.S. & L.R.

I-A.

Note - Entries not required to be scored out.

6-9-40